

1802.

Knox *et al.* versus Greenleaf.

CASE. The defendant filed the following plea in abatement:

"The said *James Greenleaf*, who is impleaded by the addition and description of a citizen of the state of *Maryland*, by *Jared Ingersoll*, his attorney, comes and defends the force and injury, &c. and says, that he, long before the arrest in the present action, and at the same time, as well as twelve months preceding the said arrest, and continually afterwards, was, and yet is, a citizen of the state of *Pennsylvania*, having his permanent domicile and residence in the said state, or district, of *Pennsylvania*, and not a citizen of the state of *Maryland*. And the said *James Greenleaf*, by his attorney aforesaid, further saith, that according to the constitution and laws of the *United States*, a citizen of *Pennsylvania* cannot be impleaded or compelled to answer, by another citizen of the same state, before the Judges of the Circuit Court, but only in the Courts of the state, having competent jurisdiction of the case. And this he is ready to verify: therefore he prays judgment, if he ought to be compelled to answer the said *William* to the said plea in Court, &c."

The plaintiffs filed a replication, averring that the defendant was a citizen of *Maryland*; and issue being thereupon joined, the question was tried before GRIFFITHS, and BASSET, Associate Judges, the CHIEF JUDGE declining, on account of a family connexion with the defendant, to take a judicial part in the cause.

Upon the evidence, it appeared, that the defendant was a native of *Massachusetts*; that he came to *Philadelphia* in 1796, and purchased a valuable house in *Chesnut-street*, in which he lived, until his pecuniary embarrassments and consequent imprisonment occurred in 1798; that his clerks and servants continued afterwards to live there, until the house was sold to Mr. *Tilghman*; that being discharged by the *Pennsylvania* insolvent acts in March 1798, he went to the southward, and returned to *Philadelphia* before the yellow fever of 1798 had subsided; that between the 5th of *November* 1798, and the 20th of *January* 1799, he applied to the legislature of *Maryland*, styling himself of that state, for the benefit of an insolvent act, in the nature of the bankrupt laws; that, on the 10th of *January* 1799, an act was passed accordingly, in which he was described as "of *Prince George county*," and by which it was provided, that the chancellor, before granting the benefit of the act, should be satisfied, by competent testimony, that the defendant was, at the time of passing the act, "a citizen of the *United States*, and of this state;" that

that the defendant was discharged under this act, on the 30th of August 1799; that he returned to *Philadelphia* in February 1800; that he removed from *Philadelphia* to *Northampton* county, in June of the same year, has paid taxes there, and has never left the state since; and that he was arrested, in the present suit, on the 20th of February 1801. 1802.

The principal point discussed, upon these facts, was, whether the defendant was a citizen of *Pennsylvania*, so as to exclude the jurisdiction of the federal Court, the plaintiffs being themselves citizens of that state? (1)

For the plaintiffs, it was contended, by *Moylan*, that the defendant could only be regarded as an inhabitant, not as a citizen, of *Pennsylvania*; that he had represented and proved himself to be a citizen of *Maryland*, in August 1799, or he could not have enjoyed the benefit of the act of that state; and that he had not, upon the most liberal calculation of time, resided in *Pennsylvania* long enough to acquire the rights of permanent citizenship, upon the principle of the constitution. 1 vol. Acts Cong. p. 55. s. 11. Const. Penn. art. 3. s. 1.

For the defendant, it was contended, by *Ingersoll* and *Dallas*, that a citizen of one state, was, constitutionally, entitled to be a citizen of every state; that the acts of congress prescribe a mode for naturalizing aliens, but none for communicating the municipal rights of citizenship, to a citizen removing from one state to another; that as to the naturalization of aliens, *Pennsylvania* leaves the subject to the acts of congress; and for the exercise and enjoyment of every right of citizenship, her constitution only stipulates, that the party shall be a citizen, shall have resided for a specified time, and shall have paid taxes; that the three requisites must be complied with, in the case of a native, as well as of an adopted, citizen, for the purposes contemplated; that, being a citizen, absence from the state does not disfranchise, except as to the right of electing and being elected, which depends on residence, as well as citizenship; that a citizen of *Massachusetts* coming into *Pennsylvania*, with a view to settle, acquiring real estate, and paying taxes, is a citizen of *Pennsylvania*, to every purpose, but that, of electing, or being elected, within the respective periods prescribed by the constitution; and that the laws of *Maryland* communicate, *instantly*, the rights of municipal citi-

(1) This action was brought against Mr. *Greenleaf*, as indorser of notes issued by *Morris* and *Nicholson*, which he had pledged as security for his own notes, given to the plaintiffs. His own notes were due before he was discharged, under the insolvent act; but the notes, of which he was indorser, became due afterwards. This afforded matter for argument, but did not appear to enter into the decision of the Court. The plaintiff's counsel cited 4 T. Rep. 714.

1802. zenship, to a citizen going thither, from another state, without  
 { impairing the permanent domiciliated citizenship, to which he is  
 entitled in his own state. *Const. art. 4. s. 1. 2 Dall. Rep. 370.*  
*Const. Penn. art. 1. s. 3. 8. art. 2. s. 4. 8. art. 3. s. 1. art. 6.*  
*s. 1. art. 9. s. 20, 21. 4 vol. State Laws, 332. s. 1. 1 Dall. Rep.*  
*152. 158. 241. Maryland Laws, July 1779. ch. 6. Nov. 1789.*  
*ch. 24. Nov. 1792, ch. 14. Nov. 1793. ch. 26.*

The COURT were clearly of opinion, that the defendant was  
 entitled to be considered as a citizen of *Pennsylvania*; and the  
 jury found a verdict accordingly.

Verdict for the defendant.